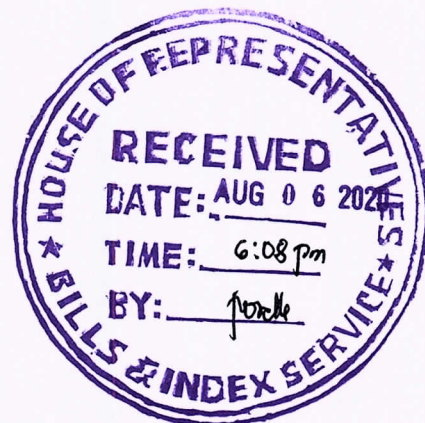




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session



HOUSE BILL NO. 7319

Introduced by Representative Sharon S. Garin

EXPLANATORY NOTE

This bill seeks to provide protection to consumers in electronic commerce, amending for the purpose Republic Act (RA) No. 7394, otherwise known as the "*Consumer Act of the Philippines*."

The Coronavirus pandemic forced the government to put in place community lockdowns and quarantines which resulted to closure of most businesses, particularly those that are non-essential. With lockdowns and quarantines in place, people's mobility was greatly reduced and only front liners were allowed to move about. This situation triggered the consumers to resort to online shopping to attend to their basic needs such as clothing and food. During the lockdowns and quarantines, most businesses have transitioned and started online selling. There is therefore a need to revisit the Consumer Act of the Philippines to protect the growing numbers of consumers in electronic commerce.

This bill aims to protect online consumers from unscrupulous online merchants and gain the trust and confidence of consumers to transact online. The mechanisms in place to protect consumers in traditional commerce is adopted and made applicable in electronic commerce.

To ensure that only legitimate businesses are offering their goods and services, online platform operators and online merchants are required to register with the Department of Information and Communications Technology and Department of Trade and Industry (DTI), respectively. Also, the operator of online platform may not allow any unregistered online merchant to use the online

platform. In addition, information about the online merchant is required to be disclosed.

For the consumers to make an informed decision in purchasing their needs online, it is required for the online platform operator and online merchant to disclose all and every information about the goods and services they offer. A mandatory help desk will be set-up to further address any concern of the consumers about the goods and services even after the goods are delivered and the services are performed.

The payment method is also made favorable to the consumers as they can choose the method most convenient to them. This feature also allows most Filipino consumers who have no credit cards, bank accounts and other means to pay online to still be able to enjoy the advantages of electronic commerce. The online platform operator and the online merchant are required to keep the records of online transactions for at least two years, for reference purposes.

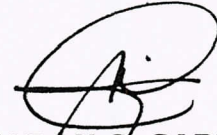
The effects of the delay in the delivery of goods and services are made clear in this proposed measure. The consumer may cancel the transaction and get a refund or still choose to continue the transaction even if there is a delay in the delivery of the goods or services. If the goods delivered are damaged, the consumer may choose for a replacement of the goods or get a refund after deciding to cancel the transaction. The refund must be given to the consumer within five (5) days from the notice of cancellation.

The prohibitions and penalties applicable in traditional commerce are made applicable in electronic commerce by RA 8792, otherwise known as the "*Electronic Commerce Act*," in a general manner by stating that, "*Violations of the Consumer Act or Republic Act No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents, shall be penalized with the same penalties as provided in those laws.*" However, at present, RA 7394 does not have particular provisions on electronic commerce transactions. Thus, this bill provides a new Article VI on Electronic Commerce Transactions, enumerates the unlawful acts and proposes penalties to deter, if not eliminate, unscrupulous online platform operators and online merchants.

As there are Filipino consumers in cross-border electronic commerce, this bill provides that any Filipino consumer aggrieved by a foreign online merchant will be given the necessary assistance to file a complaint against the erring foreign online merchant. The Department of Foreign Affairs and DTI will provide assistance to the aggrieved Filipino consumer until the complaint is resolved and finally settled.

This bill intends not only to provide the necessary protection to consumers in electronic commerce but also intends for the consumers to put their trust and confidence in transacting online. The consumers trust and confidence, in turn, will help boost not only the electronic commerce industry in the country, but also its economy as a whole.

In view of the foregoing, the early passage of this bill is earnestly sought.

A handwritten signature in black ink, appearing to be 'S. Garin', with a large, stylized loop at the top.

SHARON S. GARIN
AAMBIS-Owa Party-list



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EIGHTEENTH CONGRESS
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HOUSE BILL NO. 7319

Introduced by Representative Sharon S. Garin

AN ACT
PROVIDING PROTECTION TO CONSUMERS IN ELECTRONIC COMMERCE,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7394, OTHERWISE
KNOWN AS THE "CONSUMER ACT OF THE PHILIPPINES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. A new Title VI and new articles are hereby added after Article 166
of Republic Act No. 7394 to read as follows:

"TITLE VI
ELECTRONIC COMMERCE TRANSACTIONS
ART. 167. GOVERNING PROVISIONS. – THE PROVISIONS
UNDER TITLE II ON CONSUMER PRODUCT QUALITY AND
SAFETY, TITLE III ON FOOD, DRUGS, COSMETICS AND
DEVICES, AND TITLE IV ON PROTECTION AGAINST DECEPTIVE,
UNFAIR AND UNCONSCIONABLE SALES ACTS OR PRACTICES

18 OF THIS ACT SHALL, AS FAR AS PRACTICABLE, ALSO GOVERN
19 ALL ELECTRONIC COMMERCE TRANSACTIONS.

20 THE ONLINE PLATFORM OPERATOR AND ONLINE
21 MERCHANT SHALL ENSURE THAT THE REQUIREMENTS ON
22 CONSUMER PRODUCT QUALITY AND SAFETY, LABELING AND
23 PACKAGING, PRICING, WARRANTIES, FAIR MARKETING AND
24 ADVERTISING, AND CREDIT TRANSACTIONS ARE STRICTLY
25 FOLLOWED.

26 FOR PURPOSES OF THIS ACT, *ELECTRONIC COMMERCE*
27 OR "*ECOMMERCE*" REFERS TO THE PRODUCTION,
28 DISTRIBUTION, MARKETING, SALE OR DELIVERY OF GOODS
29 AND SERVICES BY ELECTRONIC MEANS.

30 "*ONLINE MERCHANT*" REFERS TO ANY NATURAL OR
31 JURIDICAL PERSON THAT SELLS, DISTRIBUTES OR
32 MANUFACTURES GOODS OR SERVICES IN THE ORDINARY
33 COURSE OF BUSINESS BY ELECTRONIC MEANS.

34 "*ONLINE PLATFORM*" REFERS TO DIGITAL PLATFORM
35 THAT CONNECTS ONLINE SELLERS AND ONLINE BUYERS AND
36 FACILITATES THE SALE OF PRODUCTS, GOODS OR SERVICES
37 THAT IS OPERATED BY A NATURAL OR JURIDICAL PERSON.

38 ART. 168. *LICENSE TO OPERATE.* – BEFORE ENGAGING
39 IN ELECTRONIC COMMERCE, A DULY REGISTERED BUSINESS,
40 EITHER SOLE PROPRIETORSHIP, PARTNERSHIP,

41 CORPORATION OR COOPERATIVES, SHALL SECURE FROM THE
42 CONCERNED DEPARTMENT A LICENSE TO OPERATE AS AN
43 ONLINE MERCHANT. LIKEWISE, A DULY REGISTERED ONLINE
44 PLATFORM OPERATOR MUST SECURE THE LICENSE TO
45 OPERATE FROM THE DEPARTMENT OF INFORMATION AND
46 COMMUNICATIONS TECHNOLOGY.

47 NO ONLINE MERCHANT MAY BE ALLOWED TO
48 ADVERTISE, SELL OR TRANSACT IN THE ONLINE PLATFORM
49 WITHOUT THE LICENSE TO OPERATE.

50 ART. 169. *DISCLOSURE REQUIREMENT.* – THE ONLINE
51 PLATFORM OPERATOR SHALL DISCLOSE PERTINENT
52 INFORMATION ABOUT THE ONLINE MERCHANT USING THE
53 PLATFORM. LIKEWISE, THE OPERATOR OF ONLINE PLATFORM
54 SHALL ENSURE THAT THE ONLINE MERCHANT DISCLOSES
55 NECESSARY INFORMATION ABOUT THE PRODUCTS OR
56 SERVICES THAT ONLINE MERCHANT OFFERS TO THE
57 CONSUMERS.

58 THE INFORMATION ABOUT THE PRODUCTS OR
59 SERVICES, INCLUDING THE RELEVANT TERMS AND
60 CONDITIONS OF THE TRANSACTION, MUST BE FAIR, CLEAR,
61 ACCURATE AND EASILY ACCESSIBLE TO ENABLE THE
62 CONSUMERS TO MAKE AN INFORMED DECISION WHETHER OR
63 NOT TO BUY OR AVAIL OF THE PRODUCTS OR SERVICES.

64 **ART. 170. *CONCLUSION OF TRANSACTION.* – THE ONLINE**
65 **PLATFORM OPERATOR AND THE ONLINE MERCHANT SHALL**
66 **ALLOW THE CONSUMERS TO REVIEW THE TRANSACTION**
67 **BEFORE CONFIRMATION, AND SHALL ALLOW THE CONSUMER**
68 **TO ACCEPT, REJECT OR MODIFY THE PURCHASE ORDERS.**

69 **ART. 171. *MANNER OF PAYMENT.* – THE ONLINE**
70 **PLATFORM OPERATOR AND THE ONLINE MERCHANT SHALL**
71 **ALLOW THE CONSUMER TO CHOOSE THE MANNER BY WHICH**
72 **THE PRODUCTS AND SERVICES ARE TO BE PAID. THE**
73 **CONSUMER MAY CHOOSE TO PAY BY WAY OF CREDIT CARDS,**
74 **MOBILE PAYMENTS, BANK TRANSFERS, CASH ON DELIVERY OR**
75 **OTHER PAYMENT METHODS CONVENIENT TO THE CONSUMER.**
76 **AS SOON AS PAYMENT IS RECEIVED, THE ONLINE MERCHANT**
77 **SHALL ISSUE THE CORRESPONDING SALES INVOICE OR**
78 **OFFICIAL RECEIPT.**

79 **ART. 172. *KEEPING OF RECORDS.* – ONLINE PLATFORM**
80 **OPERATOR AND ONLINE MERCHANT SHALL GIVE A COPY OF**
81 **ALL THE RECORDS TO THE CONSUMER AND SHALL KEEP ALL**
82 **RECORDS OF THE ELECTRONIC TRANSACTIONS WITHIN TWO**
83 **(2) YEARS FROM THE CONCLUSION OF THE TRANSACTION.**

84 **ART. 173. *DELIVERY.* – THE ONLINE MERCHANT AND**
85 **CONSUMER SHALL AGREE ON THE DELIVERY DATE OF THE**
86 **GOODS OR SERVICES PURCHASED ONLINE. THE GOODS OR**

87 SERVICES MUST BE DELIVERED WITHIN THE AGREED PERIOD
88 AND THE ONLINE MERCHANT SHALL ENSURE THAT THE GOODS
89 ARE COMPLETE AND IN GOOD CONDITION, AND THE SERVICES
90 ARE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF
91 THE CONTRACT.

92 FAILURE TO DELIVER THE GOODS OR SERVICES ON THE
93 AGREED PERIOD IS A GROUND FOR THE CONSUMER TO
94 CANCEL THE TRANSACTION AND THE ONLINE MERCHANT TO
95 REFUND TO THE CONSUMER THE PAYMENT MADE, IF ANY. IF
96 THE GOODS DELIVERED ARE DAMAGED, THE CONSUMER MAY
97 OPT FOR A REPLACEMENT OF THE GOODS OR A REFUND.

98 THE REFUND MUST BE GIVEN TO THE CONSUMER
99 WITHIN FIVE (5) DAYS FROM NOTICE TO THE ONLINE
100 PLATFORM OPERATOR OR ONLINE MERCHANT OF THE
101 CANCELLATION OF THE TRANSACTION.

102 ART. 174. *HELP DESK.* – ALL ONLINE PLATFORM
103 OPERATORS AND ONLINE MERCHANTS SHALL SET-UP THEIR
104 RESPECTIVE HELP DESK TO ANSWER THE QUERIES AND
105 POSSIBLE COMPLAINTS OF CONSUMERS. THE HELP DESK
106 MUST ALSO SERVE AS AN AFTER-SALES SUPPORT.

107 ART. 175. *COMPLAINT.* – ANY AGGRIEVED CONSUMER IN
108 ELECTRONIC COMMERCE MAY FILE A COMPLAINT BEFORE THE
109 CONCERNED DEPARTMENT AS PROVIDED FOR UNDER

110 CHAPTER 3, TITLE V OF THIS ACT. THE CONCERNED
111 DEPARTMENT MAY DEVELOP AN ONLINE MECHANISM TO
112 ADDRESS ANY COMPLAINT OF THE CONSUMERS.

113 ART. 176. *LIABILITY.* – THE ONLINE MERCHANT IS
114 PRIMARILY LIABLE FOR ANY SANCTIONS THAT THE
115 CONCERNED DEPARTMENT MAY IMPOSE AFTER DUE NOTICE
116 AND HEARING. IF THE ONLINE MERCHANT IS FOUND LIABLE,
117 THE LIABILITY EXTENDS TO THE OPERATOR OF THE ONLINE
118 PLATFORM IN A SUBSIDIARY MANNER.

119 ANY THIRD PARTY, LIKE COURIER AND DELIVERY
120 SERVICES, MAY ALSO BE LIABLE TO THE CONSUMER, IF
121 PROVEN TO BE THE CAUSE OF ANY DAMAGES THAT CONSUMER
122 MAY SUFFER.

123 ART. 177. *PROHIBITIONS.* – IT SHALL BE UNLAWFUL
124 FOR ANY PERSON ENGAGED IN ELECTRONIC COMMERCE TO
125 COMMIT ANY OF THE FOLLOWING ACTS:

126 A. OFFER FOR SALE, DISTRIBUTE IN COMMERCE, OR
127 IMPORT INTO THE PHILIPPINES ANY CONSUMER
128 PRODUCT WHICH IS NOT IN CONFORMITY WITH AN
129 APPLICABLE CONSUMER PRODUCT QUALITY OR
130 SAFETY STANDARD PROMULGATED IN THIS ACT;

131 B. OFFER FOR SALE, DISTRIBUTE IN COMMERCE, OR
132 IMPORT INTO THE PHILIPPINES ANY CONSUMER

133 **PRODUCT WHICH HAS BEEN DECLARED AS BANNED**
134 **CONSUMER PRODUCT;**

135 **C. REFUSE ACCESS TO OR COPYING OF PERTINENT**
136 **RECORDS OR FAIL OR REFUSE TO PERMIT ENTRY OF**
137 **OR INSPECTION BY AUTHORIZED OFFICERS OR**
138 **EMPLOYEES OF THE DEPARTMENT;**

139 **D. FAIL TO COMPLY WITH AN ORDER ISSUED UNDER**
140 **ARTICLE 11 OF THIS ACT, RELATING TO**
141 **NOTIFICATIONS OF SUBSTANTIAL PRODUCT**
142 **HAZARDS, AND TO THE RECALL, REPAIR,**
143 **REPLACEMENT OR REFUND OF UNSAFE PRODUCTS;**

144 **E. IMPORT, EXPORT, SELL, OFFER FOR SALE,**
145 **DISTRIBUTE OR TRANSFER ANY FOOD, DRUG, DEVICE**
146 **OR COSMETIC THAT IS ADULTERATED OR**
147 **MISLABELED;**

148 **F. REFUSE TO PERMIT ENTRY OR INSPECTION AS**
149 **AUTHORIZED BY ARTICLE 36 TO ALLOW SAMPLES TO**
150 **BE COLLECTED;**

151 **G. GIVE A FALSE GUARANTY OR UNDERTAKING ON THE**
152 **PRODUCTS OFFERED FOR SALE;**

153 **H. FORGE, COUNTERFEIT, SIMULATE, FALSELY**
154 **REPRESENT, OR USE WITHOUT PROPER AUTHORITY**

155 ANY MARK, STAMP, TAG, LABEL, OR OTHER
156 IDENTIFICATION DEVICE AUTHORIZED OR
157 REQUIRED BY REGULATIONS PROMULGATED UNDER
158 THE PROVISIONS OF THIS ACT;

159 I. USE FOR PERSONAL INTEREST OR REVEAL ANY
160 INFORMATION ABOUT TRADE SECRET THAT IS
161 ENTITLED TO PROTECTION;

162 J. ALTER, MUTILATE, DESTRUCT, OBLITERATE, OR
163 REMOVE THE LABELING OR PART OF LABELING OF
164 ANY FOOD, DRUG, DEVICE, OR COSMETIC ON SALE
165 RESULTING TO ADULTERATED OR MISLABELED
166 PRODUCT;

167 K. IMPORT, EXPORT, SELL, OFFER FOR SALE,
168 DISTRIBUTE, OR TRANSFER ANY PRODUCT, DRUG OR
169 DEVICE WITHOUT THE REQUIRED LICENSE UNDER
170 THIS ACT;

171 L. SELL OR OFFER FOR SALE ANY DRUG OR DEVICE
172 BEYOND ITS EXPIRATION OR EXPIRY DATE;

173 M. RELEASE FOR SALE OR DISTRIBUTE A BATCH OF
174 DRUGS WITHOUT BATCH CERTIFICATION WHEN
175 REQUIRED UNDER ARTICLE 34 OF THIS ACT;

176 **N. ALTER, MUTILATE, DESTROY, OBLITERATE OR**
177 **REMOVE THE LABELING OF A MISLABELED**
178 **HAZARDOUS SUBSTANCE OR BANNED HAZARDOUS**
179 **SUBSTANCE ON SALE; AND**

180 **O. FAIL TO REFUND THE CONSUMER FOR THE RETURNED**
181 **ITEMS WITHIN FIVE (5) DAYS FROM THE RECEIPT OF**
182 **THE NOTIFICATION TO REFUND, IN VIOLATION OF**
183 **ARTICLE 173 OF THIS ACT.**

184 **ART. 178. *PENALTIES.* – ANY PERSON WHO COMMITS**
185 **ANY OF THE UNLAWFUL ACTS ENUMERATED IN THE**
186 **PRECEDING ARTICLE THROUGH ELECTRONIC DATA MESSAGES**
187 **OR ELECTRONIC DOCUMENTS SHALL BE PUNISHED WITH**
188 **IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT**
189 **MORE THAN TEN (10) YEARS, OR A FINE OF NOT LESS THAN**
190 **ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT**
191 **MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00),**
192 **OR BOTH.**

193 **IF THE OFFENDER IS A CORPORATION OR ASSOCIATION,**
194 **THE PENALTY SHALL BE IMPOSED ON THE PRESIDENT,**
195 **MANAGER, MANAGING PARTNER OR ANY OFFICER OF THE**
196 **CORPORATION OR ASSOCIATION WHO DIRECTLY**
197 **PARTICIPATED IN THE COMMISSION OF THE UNLAWFUL ACTS**
198 **MENTIONED IN THE PRECEDING ARTICLE.**

199 **ART. 179. ASSISTANCE. – THE DEPARTMENT OF TRADE**
200 **AND INDUSTRY AND THE DEPARTMENT OF FOREIGN AFFAIRS**
201 **SHALL ASSIST FILIPINO CONSUMERS AGGRIEVED BY FOREIGN**
202 **ONLINE MERCHANT IN ELECTRONIC COMMERCE TO FILE A**
203 **COMPLAINT AGAINST THE ERRING FOREIGN MERCHANT, AND**
204 **UNTIL THE COMPLAINT IS RESOLVED AND SETTLED WITH**
205 **FINALITY.”**

206 SEC. 2. Title VI of RA 7394 is hereby renumbered as Title VII and Articles 167
207 to 173 of the same Act are also renumbered as Articles 180 to 186.

208 SEC. 3. Within ninety (90) days from the effectivity of this Act, the Secretary
209 of Trade and Industry shall, in coordination with the other heads of the different
210 implementing agencies under Republic Act No. 7394, and other laws on consumer
211 protection, issue the rules and regulations for the effective implementation of this Act.

212 SEC. 4. Paragraph (c), Section 33 of Republic Act No. 8792, otherwise known
213 as the "*Electronic Commerce Act*, is hereby amended. All other laws, orders,
214 issuances, rules and regulations inconsistent with the provisions of this Act are
215 repealed or modified accordingly.

216 SEC. 5. This Act shall take effect fifteen (15) days after its publication in the
217 *Official Gazette* or in a newspaper of general circulation.

218 Approved,